



City of Miami Springs, Florida

The Miami Springs City Council held a **REGULAR MEETING** in the Council Chambers at City Hall on Monday, August 11, 2003, at 7:00 p.m.

1. Call to Order/Roll Call

The following were present:

Mayor Billy Bain
Councilman Jim Caudle
Councilman Peter Pacheco
Councilman Rob Youngs (Arrived at 7:03 p.m.)

Absent:

Vice Mayor Eric Elza

Also Present:

Interim City Manager/Bldg. Official Michael A. Sprovero
City Attorney Jan K. Seiden
Finance Director Charles G. Marshall
Public Services Director Denise Yoezle
Police Captain Pete Baan
City Clerk Magalí Valls

2. Invocation: Councilman Pacheco offered the invocation.

Salute to the Flag: The audience participated.

3. Awards & Presentations:

3A) Certificate of Appreciation to Public Works Division Employee Carlos Alfaro

Public Services Director Denise Yoezle presented a Certificate of Sincere Appreciation to Carlos Alfaro in appreciation of the dedication and commitment he has given the City of Miami Springs Public Works Division from March 1980 to July 2003.

4. Open Forum:

Fence Installation

Brian Palmer of 122 Fern Way stated that he installed a PVC plastic picket fence in the front of his house. He received a Courtesy Notice to remove it because it is a picket fence and should be a lattice fence and he did not obtain a permit.

Interim City Manager/Building Official Michael A. Sprovero stated that the current Code regarding front yard fencing is material specific, either concrete wall, wrought iron, or a combination of the two. He explained that relief cannot be provided by the variance process, and recently Council approved PVC fencing panels for the side and rear yards. There are many new materials on the market, and in this case, Mr. Palmer has a 42-inch high picket PVC fence, which is not one of the listed acceptable materials to be used in the front yard. Mr. Sprovero stated that the City Code would have to be amended to allow the use of this type of fencing material.

To answer Mayor Bain's question, Mr. Sprovero stated that Mr. Palmer failed to obtain a building permit.

Mr. Palmer explained that he did not apply for a building permit because the cost of the fence was less than \$300.00.

Mr. Sprovero stated that the Florida Building Code 2001 stipulates that a permit is not required for work under \$300.00, as long as it is not structural, mechanical, electrical or plumbing. However, there are fencing requirements in the City's Zoning Code, and even though the work was less than \$300.00, it would still require a permit. Mr. Sprovero stated that Mr. Palmer received a Courtesy Notice for installing the fence without a permit, he came to the City to apply, and the application was turned down because of the fencing material.

City Attorney Jan K. Seiden advised Council that they could ask the Code Review Board to review the ordinance, or they could give direction to him to draft an amendment to the ordinance if they feel that enough information is available. He stated that traditionally Council has held the line on front yard fencing materials in order to provide for consistency of materials.

Councilman Youngs stated that his initial reaction would be receptive, but Council does not have approval of the Code Review Board or Building and Zoning Department. If the matter is referred to the Code Review Board, he asked what would happen with Mr. Palmer's fence.

Mr. Sprovero explained that the Administration could grant a stay and put the matter on hold until Council renders a decision.

Councilman Youngs stated that the compliance with the City Code preserves Miami Springs as a residential community and it maintains the standards of the homes. He urged all residents to comply with the Code and secure the necessary permits.

Mayor Bain added that the residents should receive correct information about permit requirements.

Council agreed to refer the matter to the Code Review Board and to hold the enforcement of this case in abeyance pending their review and Council's final decision.

Appeal: Case No. 30-V-03

Ed Subervi of 141 Truxton Drive informed Council that he filed an appeal for Case No. 30-V-03, which was heard by the Board of Adjustment at their meeting of August 6, 2003. He asked Council to consider amending Code of Ordinance Section 150-043 (D), which deals with front yard setbacks.

Attorney Seiden stated that Code Section 150-043 (D) should not be eliminated, but suggested that Council could ask the Code Review Board to consider whether or not the City should make an exception for the construction of porte-cochere structures in the front yard as long as they are not within the required 30-foot setback.

Employee Screening

Former Councilwoman Marcia H. Fulton of 700 Swan Avenue referred to an article that appeared in The Miami Herald Neighbors on Sunday, July 13, 2003, about former City Manager Maria V. Davis and the City of South Miami pre-employment police investigation, which uncovered a felony conviction. She requested that Council increase the Human Resources Department budget to allow the City to conduct thorough pre-employment investigations to avoid legal problems or liabilities in the future.

Miscellaneous Complaints

Alfred Wittenberg of 107 South Royal Poinciana Boulevard alleged that Council discussed, then tabled a controversial issue, only to bring it back later in the same meeting after many residents went home. He expressed his dissatisfaction about the meeting times and length of the Council meetings.

Mr. Wittenberg suggested closing the Golf and Country Club restaurant operation, considering the Golf Course has lost \$300,000.

Mr. Wittenberg expressed his concern about crime in the City, especially in the vicinity of Le Jeune Road and N. W. 36th Street.

5. Approval of Council Minutes: (Agenda Items 5A through 5F were approved simultaneously)

5A) 06/09/2003 - Regular Meeting

Minutes of the June 9, 2003 Regular Meeting were approved as written.

Councilman Youngs moved to approve the minutes as written. Councilman Caudle seconded the motion, which was unanimously carried on roll call vote.

5B) 06/11/2003 - Workshop Meeting

Minutes of the June 11, 2003 Workshop Meeting were approved as written.

Councilman Youngs moved to approve the minutes as written. Councilman Caudle seconded the motion, which was unanimously carried on roll call vote.

5C) 06/16/2003 - Special Meeting

Minutes of the June 16, 2003 Special Meeting were approved as written.

Councilman Youngs moved to approve the minutes as written. Councilman Caudle seconded the motion, which was unanimously carried on roll call vote.

5D) 06/23/2003 - Regular Meeting

Minutes of the June 23, 2003 Regular Meeting were approved as written.

Councilman Youngs moved to approve the minutes as written. Councilman Caudle seconded the motion, which was unanimously carried on roll call vote.

5E) 06/30/2003 - Special Meeting

Minutes of the June 30, 2003 Special Meeting were approved as written.

Councilman Youngs moved to approve the minutes as written. Councilman Caudle seconded the motion, which was unanimously carried on roll call vote.

5F) 07/14/2003 - Special Meeting

Minutes of the July 14, 2003 Special Meeting were approved as written.

Councilman Youngs moved to approve the minutes as written. Councilman Caudle seconded the motion, which was unanimously carried on roll call vote.

5G) 07/28/2003 - Special Meeting

Minutes of the July 28, 2003 Special Meeting were approved as written.

Councilman Youngs moved to approve the minutes as written. Councilman Caudle seconded the motion, which carried 3-0 on roll call vote, with Councilman Pacheco abstaining (Vice Mayor Elza was absent).

6. Reports from Boards & Commissions:

6A) 05/22/2003 - Police and Firefighters Retirement System - Minutes

Minutes of the May 22, 2003 Police and Firefighters Retirement System meeting were received for information without comment.

6B) 05/22/2003 - General Employees Retirement System - Minutes

Minutes of the May 22, 2003 General Employees Retirement System meeting were received for information without comment.

6C) 06/12/2003 - Board of Parks and Parkways - Minutes

Minutes of the June 12, 2003 Board of Parks and Parkways meeting were received for information without comment.

6D) 06/17/2003 - Education Advisory Board - Minutes

Minutes of the June 17, 2003 Education Advisory Board meeting were received for information without comment.

6E) 06/25/2003 - Board of Appeals - Minutes

Minutes of the June 25, 2003 Board of Appeals meeting were received for information without comment.

6F) 06/26/2003 - Code Review Board - Cancellation Notice

Cancellation Notice of the June 26, 2003 Code Review Board meeting was received for information without comment.

6G) 08/06/2003 - Zoning and Planning Board - Cancellation Notice

Cancellation Notice of the August 6, 2003 Zoning and Planning Board meeting was received for information without comment.

6H) 08/06/2003 - Board of Adjustment - Approval of Actions Taken at their Meeting of August 6, 2003 Subject to the 10-Day Appeal Period

There was no discussion regarding this item.

Councilman Pacheco moved to approve the actions of the Board of Adjustment, subject to the ten-day appeal period. Councilman Youngs seconded the motion.

City Attorney Jan K. Seiden stated that the applicant is appealing Case No. 30-V-03, and there is a possibility that two other cases might be appealed. If there is only one case, Council could consider scheduling the Board of Appeals meeting during a Regular meeting, or the Board of Appeals meeting could be scheduled for the last Wednesday of August if there are more cases to be heard.

Attorney Seiden suggested waiting until the end of the ten-day appeal period to see how many cases are being appealed.

Councilman Youngs preferred to schedule a separate Board of Appeals meeting.

Mayor Bain stated that he would rather meet according to schedule and hold a Board of Appeals meeting on Wednesday, August 27, 2003.

By consensus, Council agreed to meet as the Board of Appeals on Wednesday, August 27, 2003.

On roll call vote, the motion to approve carried 4-0.

7. Public Hearings:

None.

8. Consent Agenda: (All items simultaneously approved)

8A) Approval of the City Attorney's Invoice for July 2003 - \$8,470.00

There was no discussion regarding this item.

Councilman Youngs moved to approve and Councilman Caudle seconded the motion. On roll call vote, the motion carried 4-0.

8B) Recommendation that Council Approve an Expenditure of \$1,999.99 for the Equipment and Related Items Needed for the Additional Bicycle Patrol Position as Provided for in §31.11 (C) (1) of the City Code

Interim City Manager/Building Official Michael A. Sprovero stated that the amount of the expenditure is within the City Manager's authority, but Council approval is needed since the funds would be derived from the Law Enforcement Trust Fund.

Councilman Youngs moved to approve and Councilman Caudle seconded the motion. On roll call vote, the motion carried 4-0.

9. Old Business:

9A) Appointment to the Historic Preservation Board by Vice Mayor Elza (Group I), for a 3-year Term Ending on February 28, 2006 (Deferred: 6/23/2003)

Vice Mayor Elza (Group I) was not present and his appointment to the Historic Preservation Board was

deferred.

9B) Appointment to the Code Review Board by Councilman Pacheco (Group III) for an Unexpired Term Ending on April 30, 2004 (Deferred: 6/23/2003)

Councilman Pacheco (Group III) **appointed** Dan Dorrego to the Code Review Board for an unexpired term ending on April 30, 2004.

9C) Appointment to the Civil Service Board by Councilman Caudle (Group II) for a Full 3-year Term Ending on June 30, 2006 (Deferred: 6/23/2003)

Councilman Caudle (Group II) **deferred** his appointment to the Civil Service Board.

9D) Recommendation to Establish an Architectural Review Board by the Adoption of an Ordinance Outlining its Selection and Duties (Discussed: December 9, 2002)

Interim City Manager/Building Official Michael A. Sprovero stated that this is a recommendation that Council adopt an ordinance to establish an Architectural Review Board, which was first discussed by Council on December 9, 2002.

The purpose of the Architectural Review Board would be for the review of plans for commercial properties only. Council recently adopted the University of Miami Design Guidelines for Downtown Revitalization and the color palette.

Having adopted these two guidelines, Mr. Sprovero said that the Administration feels that an Architectural Review Board would be beneficial in reviewing the plans. He and the City Attorney have met briefly with six local architects to determine if they would be interested in participating, and all six agreed that they would take turns sitting on an Architectural Review Board.

Mr. Sprovero is concerned mainly with the design guidelines for the Downtown Revitalization Façade Program. He felt that it should not be the Staff's responsibility to make the determination if the designs meet the guidelines.

City Attorney Jan K. Seiden said that the ordinance is modeled after the City of Coral Gables Architectural Review Board. The Board will function internally within the City, consisting of professionals whose duties would be to review the specifications, plans, and designs for commercial projects. Section (L) provides for the authority to require modifications in any plans specifications or designs presented as may be necessary to conform to the policies, standards and ordinances.

Attorney Seiden stated that right now the City is dealing with the approved color palette and the façade designs. If Council approves them in concept, then Council would have to adopt further policies that would stop inappropriate construction in other areas of the City through recommendations from the Administrative Staff or advisory boards. The Board would have a body of information and design criteria to select from in order for it to remain functional.

Jack Odin of 1295 Thrush Avenue said he understands that the Architectural Review Board would be dealing only with the color palette and façade program, and not zoning matters. He explained that many times the Zoning and Planning Board never sees the design of the building when they approve site plans, and this would not solve the design problem.

Mr. Odin said that in his opinion, in order to protect the City from another building like the Poinciana Motel, there must be an ordinance specifying that there will be no attached garages to motels, and no stairs that enter directly into the units from the parking area. He was concerned that the proposed ordinance could add another layer of bureaucracy that would be unfriendly to businesses.

Mr. Odin was not under the impression that the University of Miami design guidelines would be the total design for the City. He said that no steps have been taken to amend the City's Comprehensive Plan that was adopted in 1998, and there were no ordinances drafted for any of the Dover Kohl recommendations. He said the City wasted another \$20,000 for another study of the N. W. 36th Street Corridor. In his opinion, the Architectural Review Board should be implemented and Council should start amending ordinances.

Attorney Seiden said that if Council decides to adopt different design criteria for other areas in the City that would be something that would be considered by this board. The board must be given direction and a basis on which to make their decisions, or their decisions could be challenged, which would make the board useless. He explained that this is a format for the implementation of what Council would do later.

Mayor Bain stated that he would like to have more information, or for Mr. Odin to explain exactly what the ordinance establishing the Architectural Review Board would entail.

Attorney Seiden felt the proposed ordinance would establish a good framework for the board, which is step one. Step two would be for Council to adopt other design criteria that the board would enforce with the recommendations coming from the Administration, Building Department or private architects.

Mr. Sprovero recommended that Council should approve the proposed ordinance on first reading.

Councilman Youngs wanted to make certain that the City has the tools in place to prohibit buildings like the Poinciana Motel and the Architectural Review Board could be the mechanism. He said the concern is that the City must remain business friendly, and there cannot be a bureaucracy that would stop development.

Councilman Youngs felt the success of the board would depend on the members who are appointed and the standards that are set.

Attorney Seiden stated that meetings were held with six local architects who are very excited about getting involved in the process. He felt that the board would be development friendly and it is a protection tool so that an inappropriate structure is not built within the City.

Councilman Youngs moved to direct the City Attorney to draft an ordinance for first reading. Councilman Caudle seconded the motion, which carried 4-0 on roll call vote.

9E) Discussion Pertaining to Proposed Amendment to Code of Ordinance Section 93.50 - Garage Sales, Increasing the Number of Garage Sales in a Calendar Year

Interim City Manager/Building Official Michael A. Sprovero stated that at the regular Council meeting of April 14, 2003, a resolution was adopted to establish fines for violations of the ordinance pertaining to garage sales. At this time, a question was raised as to the number and frequency of garage sales that are permitted under the current ordinance.

Council directed the Code Review Board to discuss this issue. At the May 22, 2003 meeting the Code Review Board recommended increasing the number of garage sales to three per calendar year, instead of two, and to allow residents that are moving to hold garage sales on two consecutive weekends.

Mr. Sprovero explained that this recommendation is being presented to Council for discussion only. If Council agrees with the revisions, an appropriate ordinance would be prepared and brought back for first reading at the next meeting.

Assistant City Attorney Jan K. Seiden stated that there is an additional recommendation from the Code Review Board, which says that the Administration would have the discretion not to count garage sales that are "rained out" as one of the three.

Mr. Sprovero said that he would like to change the wording "moving out of the City" to simply "moving" because a resident might be moving to another house within the City.

Councilman Youngs suggested adding the wording "at the discretion of the City".

Councilman Caudle moved to approve the Code Review Board's recommendations as amended and to direct the City Attorney to prepare an appropriate ordinance. Councilman Pacheco seconded the motion, which carried unanimously on roll call vote.

9F) Discussion Pertaining to Proposed Amendment to Code of Ordinance Section 93.13 (C) - Maintenance of Property by Owner

Interim City Manager/Building Official Michael A. Sprovero stated that Code Section 93.13 (C) – Maintenance of Property by Owner pertains to the use of hurricane protection. At the Council meeting of May 12, 2003, there was a discussion about this section of the City Code and the usage of the storm protection devices. Vice Mayor Elza requested that the issue go back to the Code Review Board for further study.

Mr. Sprovero said that on May 22, 2003, the Code Review Board made the recommendation to delete all reference to accordion shutters, window awnings, hurricane panels and other forms of storm protection devices. The ordinance would only apply to plywood materials that are left on windows after the fourteen-day period following a storm during the hurricane season.

Mr. Sprovero explained that a copy of the proposed change was distributed to Council for their discussion, and if they agree, the City Attorney would draft an ordinance for first reading at the next meeting.

City Attorney Jan K. Seiden cautioned Council that if they approve this amendment, the Code Enforcement Department would not have the tools to deal with these issues, and there could be homes that have hurricane shutters on the windows all year.

Attorney Seiden added that there is a safety issue related to using storm shutters as security devices, especially when people are living in the home. He said that the situation would be different if people are away from their home.

Mr. Sprovero agreed that it is a safety hazard to keep shutters on the home, especially the bedroom windows, because there should be a means of egress.

Councilman Caudle suggested that the Administration could handle requests to leave storm protection devices up on a case-by-case basis if a resident is going out of town. He explained that if the resident is not going to be in the home, it would be a different situation.

Mayor Bain said that he understood that the previous Council initiated the control of storm protection devices, and it was not a request from residents of the City.

Councilman Youngs said that one resident complained and that is what raised the issue. He said that Council wanted to be more lenient in some way because fourteen days seems strict considering that people might be out of town on vacation.

Attorney Seiden stated that some residents use the storm shutters to prevent crime, even though the City has a good Police Department, which is a safety concern. He advised Council that, in good conscience, they should think about the changes, which he made based on the Code Review Board's recommendations. He

felt there could be a better solution to eliminate the potential for a safety hazard.

To answer Councilman Youngs' question, Mr. Sprovero stated that when Code Enforcement first began enforcing the new regulation, there were more than thirty cases where homes were totally shuttered and it was not during the hurricane season.

Councilman Youngs said that the prior Council's intent was to eliminate hurricane shutters on homes unless it is during the hurricane season, and not to allow them just because someone might be going out of town. He felt it would be too extreme to take out all storm protection devices, except for plywood.

Mayor Bain reiterated that Council initiated the ordinance regulating storm shutters and the people should be the ones to say what they want.

Attorney Seiden suggested that there might be a way to add a provision to the ordinance that states that storm shutters would be allowed to stay up if the residents are out of town and they register with the City. He said the extreme was that citizens did not want the look of shutters being down in their neighborhood all the time, whether the house was occupied or not.

Councilman Caudle said that in his neighborhood some people had one or two windows with shutters on the side of the house, and it was not as big of a deal as people are making it.

Mayor Bain said that Council adopted the ordinance in November 2002, and there was nothing like it before.

Attorney Seiden stated that there was an ordinance in place, but it was expanded to include different types of shutters. He advised Council that they would not have to make a decision now, but it might be an issue that should be discussed with their constituents.

Councilman Caudle felt that there is a consensus of Council that they do not approve of the ordinance the way it is now and it could be changed, but there must be more time to decide how the law would be monitored.

Councilman Youngs stated there should be more of a middle ground.

Councilman Pacheco said that the hurricane season is mainly during the summer months and some people go out of town for an entire month. He explained the problem was that some people who are out of town have no one to put the shutters up and take them down. He added that hurricane shutters were never meant to be a security item, they are a safety issue, and they take away from the aesthetics of the neighborhood.

Councilman Pacheco would like Council to take more time to consult with the residents.

Mayor Bain reminded Council that the residents have already told Council that the ordinance was too

restrictive. He said that one resident felt that she was being harassed by the Code Enforcement Department because she counted approximately 160 houses with shutters in the City. The Mayor felt that the residents already gave their input.

Councilman Pacheco stated that the Code Review Board's recommendation for storm shutter regulation goes to the extreme and there should be a middle ground.

A resident of 931 Bluebird Avenue advised Council that Bahama Shutters should also be considered.

Councilman Youngs suggested asking the Code Review Board to come back with a recommendation, considering that the 14-day time limit is not long enough during the summer hurricane season, and that they must also accommodate people who are on vacation throughout the year.

Councilman Caudle said that people who are out of town for a month or more should register with the City of Miami Springs, and the shutters should not be allowed if people are living in the home.

Council directed the City Attorney to re-draft the ordinance and to bring it back for discussion at the next meeting.

Councilman Youngs requested that this matter be advertised in order to get more feedback from the community.

9G) Discussion Pertaining to Proposed Amendments to Code of Ordinance Section 150-013 - Fences, Landscaping and Boundary Walls

Interim City Manager/Building Official Michael A. Sprovero stated that at the May 12, 2003 Regular Council meeting, a resident raised a question about the legality of planting ficus hedges because of their intrusive root system. Vice Mayor Elza suggested that the Code Review Board review the subject and make a recommendation. The Code Review Board recommended that Code Section 150.013 should be amended to ban the planting of any new ficus hedges, and that existing ficus hedges should be restricted to 42-inches in height inside the front yard setback and five-feet in height in the side and rear yard setbacks.

Attorney Seiden stated that he drafted the ordinance to conform to the suggestions of the Code Review Board. Subsection (E) states that the planting of new or replacement ficus hedges in the front, rear or side of a resident's property is strictly prohibited from now on, and Subsection (C) states that existing ficus hedges should not exceed five feet in height in the rear and side yards of residential properties.

Mr. Sprovero clarified that all hedges in the front yard setback are restricted to 42-inches in height.

Councilman Pacheco commented that the City allows six-foot fences. He suggested that the height limit for ficus hedges in the side and rear yards could also be six-feet. Councilman Pacheco felt that this height would be easier to enforce.

Mr. Sprovero said that under the current Code there is no height restriction for rear hedges and the taller the ficus hedges get, the more intrusive the root systems become.

Councilman Caudle agreed that the height limit should be six-feet.

Councilman Youngs asked if the root systems of a ficus hedge are so intrusive that they should be totally banned.

Public Services Director Denise Yoezle explained that the roots of a ficus hedge are not as intrusive as a ficus tree, but they would become intrusive if they grow tall. She would support the law prohibiting the planting of any new ficus hedges because they have the potential for damage.

Councilman Pacheco moved to schedule first reading of the ordinance, as amended. Councilman Caudle seconded the motion, which carried unanimously on roll call vote.

9H) Consideration of Amending Code Section 54.06 - Tree Removal Standards (Discussed: 6/23/2003)

Public Services Director Denise Yoezle stated that the proposed revision to the tree ordinance would establish a black olive tree removal and replacement program. Currently, residents are required to pay for the removal and mitigation of a black olive tree on private property, and also for trees in the swale area in front of their home.

Ms. Yoezle explained that if the revision were approved, the resident would still have to pay for the removal of the tree, and half the mitigation for trees on private property. The mitigation is currently \$200.00 and it would be reduced to \$100.00. If the black olive tree is on public property, the City would bear the cost of the removal and replacement, and the resident would be required to pay half the mitigation, or \$100.00. She added that the City could only remove twenty black olives trees per year, and they would be replaced with another type of tree.

Ms. Yoezle stated that it would cost the City approximately \$22,000 per year to carry out the program, and she is requesting that Council budget this amount each year.

Councilman Youngs asked about the accuracy of the \$22,000 per year cost.

Ms. Yoezle explained that under the City's tree removal contract, black olive trees are removed for \$850.00, and considering the cost to plant a new tree, \$1,000 per tree is an accurate estimate.

Mayor Bain asked why the homeowner is not allowed to remove a black olive tree from City property if they agree to bear the expense.

Ms. Yoezle clarified that the resident is allowed to remove black olive trees from City property if they obtain a permit and pay for the tree removal and mitigation.

Interim City Manager/Building Official Michael A. Sprovero asked if it would be a liability to the City for a homeowner to cut down a tree on public property.

Attorney Seiden suggested that the homeowner could sign a waiver from liability stating that they are willing to assume all the risks.

Ms. Yoezle reminded Council that Miami Springs was awarded the “Tree City Growth Award” for nine years. She explained that the City must maintain a strong tree ordinance that regulates tree removal or the City could lose that status.

Mayor Bain said that the black olive trees are damaging and he could not see why there should be a limit of twenty trees per year. He asked how the number of trees that can be removed was determined.

Ms. Yoezle stated that the Board of Parks and Parkways recommendation was to limit the removal of black olive trees on City property to twenty per year. She said that the removal of healthy trees at a rapid pace would be injurious to the entire charm and green assets of the City. Ms. Yoezle explained the idea is to keep a strict tree ordinance and to value the tree canopy.

Councilman Youngs suggested that Eric Richey, Chairman of the Board of Parks and Parkways, could speak to Council about the number of trees that should be removed.

Mayor Bain stated that he would like the residents to be able to remove the trees from City property if they agree to pay the expense.

Councilman Pacheco asked if there would be control over the location of the removals. He said there was discussion about the trees not being removed from a two-block area and the removal would be scattered throughout the entire City.

Ms. Yoezle said that the Public Works Department would decide if the tree should be removed due to staining or damage. She said they would also have control over the tree removal location so that the tree canopy is not depleted in one block or area.

Councilman Pacheco moved to approve the recommendation and direct the Administration to schedule first reading of the ordinance at the next meeting. Councilman Youngs seconded the motion, which carried unanimously on roll call vote.

10. New Business:

10A) Appointment to the Golf and Country Club Advisory Board by Mayor Bain for a Full 2-year Term Ending on July 31, 2005

Mayor Bain asked if the Golf and Country Club Advisory Board would be reactivated when Council makes their appointments to the Board.

Councilman Youngs said that looking back at the Council minutes, Councilman Caudle made the suggestion that there should be a greens committee instead of a golf or food and beverage committee. He would like to have more direction before appointing members and have this discussion first.

Mayor Bain stated that he would want the Board to oversee everything, including the Food and Beverage operation. He felt the Golf Course maintenance is functioning fine.

Councilman Pacheco agreed with Mayor Bain that the Board should oversee the entire operation. Councilman Youngs said that the advisory board members are advisors to Council and the danger is that when members are appointed to the Golf and Country Club Advisory Board they might feel like they have the power to run the Golf Course. He said that it must be clear that their advice is to go back to Council only.

Attorney Seiden suggested that Council could appoint the members of their choice and at the Special Meeting on September 2, 2003, Council could give the Board direction. He said that both the Administration and DJB Management Inc. are going to make recommendations to Council and then decisions must be made. He felt that at this point, Council is not ready to assign any tasks.

Mayor Bain **deferred** his appointment to the Golf and Country Club Advisory Board.

10B) Appointment to the Golf and Country Club Advisory Board by Vice Mayor Elza (Group I) for a Full 2-year Term Ending on July 31, 2005

Vice Mayor Elza (Group I) was not present.

10C) Appointment to the Golf and Country Club Advisory Board by Councilman Caudle (Group II) for a Full 2-year Term Ending on July 31, 2005

Councilman Caudle stated that over the last four or five years there have been too many people involved in running the Golf Course that are not professional and politics were involved. He would like the members to have the understanding that they are not supposed to run the Golf Course or interfere with the management. He said that most golf courses have a Greens Committee that make various suggestions and they do not get involved in the operation.

Councilman Caudle (Group II) **deferred** his appointment to the Golf and Country Club Advisory Board.

10D) Appointment to the Golf and Country Club Advisory Board by Councilman Pacheco (Group III) for a Full 2-year Term Ending on July 31, 2005

Councilman Pacheco (Group III) **deferred** his appointment to the Golf and Country Club Advisory Board.

10E) Appointment to the Golf and Country Club Advisory Board by Councilman Youngs (Group IV) for a Full 2-year Term Ending on July 31, 2005

Councilman Youngs (Group IV) **deferred** his appointment to the Golf and Country Club Advisory Board.

Attorney Seiden added that the Golf and Country Club Advisory Board is the most difficult board in dealing with Sunshine Law violations. He said that golf is a recreational sport and the members might play golf together and they would have to restrain from discussing golf course matters with each other or any of the Council members. Attorney Seiden said that any conversations the Board members or Council would have must take place in a public forum.

10F) Discussion Pertaining to Advertising in the River Cities Gazette (Requested by Councilman Pacheco)

Mr. Martin Marquez of 401 Hunting Lodge Drive said that the River Cities Gazette keeps the residents abreast of social and local news in an unbiased manner. He objected to any proposal to withdraw the City's advertising business from the River Cities Gazette due to the unsigned letter to the Editor that was recently printed.

Dona Kelley of 830 Swan Avenue considered canceling her subscription to the River Cities Gazette, but she depends on the publication to keep her current on local events. She said that if the City could find a suitable alternative, she would agree that City dollars should be channeled elsewhere. In her opinion, the Editor of the River Cities Gazette does not have the best interest of the City in mind.

Councilman Pacheco stated that he asked this agenda item to come forward as a reaction to the many letters, e-mails and telephone calls he received after the unsigned letter to the Editor was published. He said that he would never tell the Editor how to run his newspaper and he believes in Freedom of the Press.

Councilman Pacheco said that the biggest concern was that the Editorial rules or policies that are set are not real. Some people can send an unsigned letter saying anything they want with no accountability, and if this is the direction the publication takes, he would rather channel the City dollars to another type of publication

that people will read and trust.

Councilman Pacheco stated that last fiscal year the City paid out \$12,000 to the River Cities Gazette and approximately \$14,000 this year. He explained that the City publishes the monthly News Bulletin in the Gazette and the majority of the residents read the publication to obtain local information.

Councilman Pacheco asked Editor and Publisher Tom Curtis to explain what is the editorial policy of the River Cities Gazette.

Joe Derry of 13 South Royal Poinciana Boulevard, Apartment 11, said that before publishing the unsigned letter, the Gazette had run an editorial about the sorry state of pre-election rumors and the falsehoods, which he felt was commendable, but the paper published the anonymous letter which, in his opinion is a sorry example of what the people have degenerated to in this community in terms of character and disrespect for truth.

Mr. Derry stated that the Gazette should not be punished, and that they should develop a policy of identifying people who write letters and state that they will not back the truth or falsity of the information contained herein.

Councilman Pacheco said that he would like Mr. Curtiss to explain what is the editorial policy of the River Cities Gazette.

Tom Curtis of 5433 N. W. 94th Doral Place stated that he receives many unsigned letters from concerned and anonymous citizens. He said that they have a very liberal policy based on the First Amendment and there have been very few times when letters to the Editor are not published.

Mr. Curtis said that several times they have published letters from people that requested to remain anonymous, he regrets the letter that ran, and he published an apology. He said that he was out of town and did not oversee the newspaper, which is not an excuse. He apologizes and hopes to continue doing business with the City.

Councilman Youngs asked whose decision it was to publish the letter if Mr. Curtis was out of town.

Mr. Curtis said that it was his decision to publish the letter, even though he was out of town. He felt that many letters contain informative information and every week he must decide which letters to publish. Mr. Curtis explained that the week the letter in question was published it was a week when there were very few letters, and he had received and rejected the same letter before.

Councilman Youngs interjected that Mr. Curtis was present at the Council meeting when Councilman Caudle brought forward the letter and stated that it was full of lies, and it had been distributed throughout the City.

Mr. Curtis stated that the letter he received was signed.

Councilman Youngs explained that he is questioning Mr. Curtis' judgment and how he decides what is published. He felt it was incredible that the letter was published after it was initially rejected.

Mr. Curtis agreed that it was his mistake, and he thought that the personal information had been taken out of the letter.

Councilman Caudle said that the letter he received was unsigned, and Mr. Curtis was present when he brought the letter forward and stated that he did not think anyone would publish it. He felt the letter was abusive because it contained personal information. He said that the editorials would continue whether or not the City does business with Mr. Curtis, and he feels the City should continue doing business with the Gazette.

Mr. Curtis stated that it is not his obligation to check the facts of every letter to the Editor because it is a very open forum situation.

Councilman Youngs said that publishing the letter was very unprofessional and it was an intentional attack on the City Manager. He felt that anyone who read the letter should have known it was a pack of lies and it was circulated for the purpose of harming someone. Councilman Youngs explained that the letter was a direct attack on the City regardless of whether the City Manager was liked or not, this could happen to anyone, and the City has not received an apology until this meeting.

Councilman Youngs told Mr. Curtis that he has the power to influence what happens in the City, which is a level of responsibility to which he should step up to. He stated that Mr. Curtis is smart and sharp and he would like to know what happened.

Mr. Curtis said that he was not aware of the letter that Councilman Caudle received from a concerned citizen, he did not see that letter, and he would never publish a letter from a concerned citizen.

Councilman Caudle asked why the letter was not published with the name on it and whose decision it was to take it off.

Mr. Curtis said that letters were published unsigned in the past and he stated in the Gazette that it would not be done again.

Councilman Caudle explained that the letter was published at a time when the City was having problems with the City Manager and it seemed very political in the eyes of Council.

Mr. Curtis assured Council that the policy of publishing unsigned letters has been changed and he accepts full responsibility for the mistake.

Councilman Youngs suggested that Council should review the advertising contract on an annual basis

because there could be other alternatives. He said that the City evaluates every other contractor and he would like an annual review of the advertising expenses.

To answer Mayor Bain's question, Interim City Manager/Building Official Michael A. Sprovero said that the City does not have a contract and the advertising is done on an as needed basis according to the rate schedule.

Mayor Bain suggested that a contract should be negotiated for advertising on an as needed basis.

Councilman Youngs asked the City Manager to check with other cities to see what they pay for advertising and what they receive in terms of services.

Council directed the Administration to obtain other advertising rates and compare rates and services.

10G) Request by Parkway Canal Properties, Inc. to Construct Two Columns and a Trellis Roof Over the Sidewalk on Canal Street

Interim City Manager/Building Official Michael A. Sprovero stated that Parkway Canal Properties, Inc. is requesting to build two columns at the curb's edge with a trellis roof over the Canal Street sidewalk, on the North side of Holleman's restaurant. This would create a covered pedestrian walkway and an outdoor dining facility.

Mr. Sprovero said that outdoor dining is permitted under the current City Code on City sidewalks that are nine-feet or wider. The sidewalk that will be constructed under the Canal Street Streetscape program will be fourteen-feet wide.

Noel Pereda of 111 Chippewa Street alleged that someone may have received favors with regard to work that was done, and he does not regret the fact that the former City Manager accepted employment with the City of South Miami.

Mr. Pereda was of the opinion that the River Cities Gazette has always been a publication that has looked out for the best interests of the City. He felt that it was not right that the City hired a person that had a record.

Mr. Pereda informed Council that the City of Miami Beach charges its businesses for use of the City sidewalks for outdoor dining based on the square footage. He understands that outdoor dining is becoming more attractive due to the ban on smoking in restaurants, and suggested that the City should consider an agreement, or charge a fee for use of the sidewalk.

To answer Mayor Bain's question, Mr. Sprovero explained that the property owner would pay for the construction of the columns and trellis as part of the façade program. He said that because it is a city-owned sidewalk, the property owner must have Council approval for the construction. The previous City Council approved the façade work for the Parkway Shops and the columns at the curb's edge creating a pedestrian covered walkway.

Mr. Carlos Santana of One Curtiss Parkway stated that he would pay for the columns and trellis. He explained the trellis would extend from the building and cover the sidewalk creating an outdoor dining area. He explained the work would not expand the entire length of the building because the new landscaping and lighting would not allow it. He said that the proposed columns and trellis would give the building the character that the City is looking for in the revitalization of the Downtown area.

To answer Mayor Bain's question, Mr. Sprovero clarified that Mr. Santana would still have to go through the permitting process after Council gives approval for use of the City sidewalk.

Councilman Pacheco move to approve the request and Councilman Youngs seconded the motion.

Mr. Santana said that Downtown Miami Springs is struggling and the merchants have difficulty paying the rent. The City of Miami Beach provides its businesses with hotels, advertising, and a tourist trade that provides millions of dollars, which the City of Miami Springs does not provide. He said that he would be happy to pay whatever amount the City feels is reasonable for use of the public property, but the City should take advantage of merchants that are willing to invest their own funds for development. Mr. Santana said that he is trying to attract the people to the Downtown area and it is not reasonable to put a burden on a business that is trying to survive.

Councilman Pacheco felt that Mr. Pereda raised a good point. He said that the City of Coral Gables and the City of Miami Beach lease out the parking meters to the restaurants for valet parking and they make income. Councilman Pacheco said that in the future there could be enough traffic generated in the Downtown area to do this.

Mr. Pereda gave Mr. Santana credit for what he has done for the community. He said that charging him a fee might be something to consider for the future. Mr. Pereda felt that there should be more tourists attracted to Miami Springs because it has more history than other areas in Miami, but the City is not doing anything to promote the culture. He said that most residents want to keep the small town environment and the history of the City would attract the tourists.

Mr. Pereda said that Glenn Curtiss was a pioneer in aviation and the founder of the City of Miami Springs and nothing has been done to promote this history and the unique architectural style. He felt that Miami Springs has a lot to give and not enough is being done to attract the people.

Councilman Caudle said that the previous City Council pushed for revitalization and the residents said they did not want to widen the sidewalks or have tourists come to the City, yet Mr. Pereda is saying that not

enough is being done to attract people. He explained that Council is simply doing what they hear from the residents.

To answer Councilman Caudle's question, Mr. Pereda said that he supports the façade program as long as the residents do not have to pay the expense. He felt the City should spend money to attract the tourists to a museum, to build statues of Glenn Curtiss, and promote the history of the Golf Course.

Councilman Caudle said the bottom line is that the City is not doing any marketing. He felt that a decision should be made regarding marketing.

Mr. Pereda was of the opinion that the City spends too much for studies and nothing is ever done.

Councilman Pacheco stated that Curtiss Mansion, Inc. is working to restore the Curtiss Mansion and to create a museum that is linked to aviation, and this would attract the tourists that would dine in the restaurants and use the Golf Course facilities.

Mr. Pereda said that the City is not doing enough to support Curtiss Mansion, Inc. and the politicians should be looking for the funds to restore the Mansion.

On roll call vote the motion carried 4-0.

Councilman Youngs recognized Carlos Santana for investing his own money in Downtown revitalization. He urged the residents to patronize the businesses in Miami Springs.

10H) Approval of License Agreement Between the City and Amaury Bitetti for Martial Arts Instruction

Interim City Manager/Building Official Michael A. Sprovero stated that this is a request for Council to approve a license agreement to lease the Cavalier Annex to conduct martial arts classes three times per week. The agreement would be for a term of one year, commencing on September 1, 2003, and ending August 31, 2004.

Mr. Sprovero said that the lease fee agreement is based upon four categories and the number of students that register for the class.

City Attorney Jan K. Seiden stated that the license agreement is modeled after the Romir Baseball Academy agreement that permits the usage of City facilities. They must provide \$1MM insurance coverage and a Hold Harmless Indemnity.

Councilman Pacheco said that his concern is that they are running a business within a City facility with very little overhead, while there are businesses in the City that pay for rent and taxes to operate the same type of business. He explained that if the residents were charged a registration fee, it would not be a problem, but that he could not approve of running a business in a City facility.

Councilman Caudle agreed with Councilman Pacheco.

Councilman Youngs asked if the rental amount is comparable with the amount that the martial arts school would have to pay to lease space elsewhere in the City. He wondered why the City should allow this business to pay a lesser rental rate and give one business advantage over another.

Mayor Bain suggested that the Administration could renegotiate the agreement and understand Council's position.

Attorney Seiden said that other groups have utilized the facilities on an independent contractor basis whereby they offered their services to the residents for a fee, which is similar to the martial arts agreement.

Councilman Youngs explained that he would like additional information about the martial arts classes.

Mayor Bain said that he would like more information from the people who are involved in the martial arts program.

Councilman Caudle stated that most recreation departments lease services in order to provide activities like Little League baseball, Optimist football, line dancing, and martial arts.

Councilman Pacheco moved to defer, pending additional information from Amaury Bitetti. Councilman Caudle seconded the motion, which carried 4-0 on roll call vote.

11. Golf Course Items:

None.

12. Other Business:

None.

13. Reports & Recommendations:

13A) City Attorney

Canal Street Parking Lot

City Attorney Jan K. Seiden received notification that the Summary Judgment from the Court in regard to the Canal Street Parking area lawsuit has not been appealed and it is final. He said that the City is now ready to begin revitalizing the parking lot with the help of the various business owners who would be utilizing the lot, and there should not be a problem as long as proper notice is given to the property owner.

Appeal

Attorney Seiden reported that Max Milam has appealed the last decision of the Board of Appeals and that his attorney has filed a petition for Writ of Certiorari in the Circuit Court. He reported that he would work closely together with the applicant's attorney, Stanley Price, to save money in the appeal process.

Councilman Caudle asked if the property owner could go forward with the renovation of the building at One Westward Drive before the court makes a decision.

Attorney Seiden explained that a variance was granted for parking, and that the owner, Mr. Bartolone, could begin renovation of the premises. He also informed Council that Mr. Bartolone must come back to the City for site plan approval because there were issues about the design of the parking lot and the location of the dumpster. Attorney Seiden explained that this process could go forward because the parking variance was not appealed.

Attorney Seiden stated that should the City win or lose at this level, there is still another level of appeal that Mr. Milam or the City could take to the Third District Court of Appeals.

13B) City Manager

Chief of Police

Interim City Manager/Building Official Michael A. Sprovero informed Council that Chief of Police H. Randall Dilling has returned home from the hospital and is recuperating very well.

1401 North Royal Poinciana Boulevard

Interim City Manager/Building Official Michael A. Sprovero informed Council that the property owner at 1401 North Royal Poinciana Boulevard has reneged on the \$68,000 offer to acquire the twelve foot strip of his property, and he now wants to double the amount of the original settlement.

Mr. Sprovero said that in consulting with the City Attorney, he has recommended that the City proceed with eminent domain.

City Attorney Jan K. Seiden said that the City would have to obtain another appraisal of the property and order a survey. He explained that Mr. Sprovero negotiated a fair deal with the property owner, an agreement was drawn up, but the property owner backed off.

13C) City Council

Resolution: Paper Record of Every Ballot Cast

Councilman Pacheco said that upon the request of the Miami-Dade County League of Cities, he asked the City Attorney to prepare a resolution requesting the County to create a paper record of every ballot cast regardless of the voting systems or technologies used. This can be accomplished with the installation of an attachment to the voting machine. He said that this proposal would be presented to the County Commission in September 2003.

Councilman Youngs added that without a paper audit trail the votes are lost if there were a malfunction of the computer. He said that most of the counties are approving the new equipment to protect the integrity of the voting process, and apparently the Miami-Dade County Commission is wavering on this issue.

By consensus, Council agreed to consider the resolution during the August 25, 2003 Regular Meeting.

Pledge of Allegiance

Councilman Pacheco requested and obtained Council authorization to participate in a program with the local schools allowing students to attend Council meetings and lead in the Pledge of Allegiance. He felt that this would be a great opportunity for the students to become involved in government affairs, and he explained this could be done on a rotation basis with the schools selecting the students.

Councilman Pacheco will meet with the City Clerk to set up the procedures for notifying the schools.

South Florida Water Management Grants

Councilman Pacheco received information regarding South Florida Water Management grants that cities can apply for and receive funding of up to \$50,000.00. He asked Public Services Director Denise Yoezle to look at various options to determine if the City would be eligible.

Recognition to Dr. Maria Rivero

Councilman Pacheco requested and received approval to issue a Certificate of Appreciation to Dr. Maria Rivero, Director of the New Life Assembly at Miami Springs Baptist Church, for offering programs to the kids in the community.

Miami-Dade County League of Cities: 50th Anniversary

Councilman Pacheco stated that every year the City purchases a table, with ten tickets, for the Miami-Dade County League of Cities Installation Dinner for \$750.00. He suggested that the City could pay \$1,000, which would provide the tickets and an advertisement for the 50th Anniversary Commemorative Journal.

Councilman Pacheco moved to authorize the expenditure from the Non-departmental account. Councilman Youngs seconded the motion, which carried 4-0 on roll call vote.

Arturo Sandoval Day

Mayor Bain thanked the Miami Springs Golf and Country Club Staff and Javier Diaz for the Miami Aquí Golf Tournament event held on August 1, 2003, at which time Arturo Sandoval played the National Anthem to kick off the tournament to an audience of approximately 350 people. Mayor Bain said that he presented Arturo Sandoval with a proclamation and a key to the City.

Fourth of July Festivities

Mayor Bain thanked all the citizens that attended the Fourth of July festivities. He said that people along the parade route welcomed him, the fireworks were excellent, and everyone had a good time.

14. Adjourn.

There being no further business to be discussed the meeting was adjourned at 9:55 p.m.

Billy Bain

Mayor

ATTEST:

Magali Valls, CMC
City Clerk

Approved as written during meeting of: 9/8/2003

Transcription assistance provided by S. HitafferWords ~~stricken through~~ have been deleted. Underscored words represent changes. All other words remain unchanged.